

## Re: A request for an interpretation of BPC sections 6731(e) and 6734 in re engineering reports prepared as part of the BID formation process

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**Subject:** Re: A request for an interpretation of BPC sections 6731(e) and 6734 in re engineering reports prepared as part of the BID formation process  
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Thanks for your response, Mr. Moore.

As much as I appreciate it, I'm a little skeptical about your invitation to submit a complaint. If I didn't know you better I'd think you were mocking me. The only reason I ever even got into this discussion with Ms. Criswell is that someone I know did submit a complaint against an engineer for his work on one of these engineering reports (despite your liberal use of scare quotes, these actually are called "engineering reports" in the PBID law cited below).

One of your enforcement analysts, Ms. Jacqueline Lowe, responded to his complaint (a copy of the response is attached for your reference) stating unequivocally that the preparation of these "tax assessment" reports' (she's as liberal with her scare quotes as you are! Maybe it's part of agency culture?) most emphatically do not constitute the practice of engineering and therefore that it is 'not within the Board's authority to investigate the validity of the engineering reports.'

Ms. Criswell has confirmed that this interpretation is used by the enforcement unit. She went so far as to say that the Board would be forbidden to investigate engineers for preparing these reports because to do so would constitute "creating underground regulation, which is prohibited." She also confirmed, I believe, that every mention of this policy is contained in enforcement unit response letters, which leads me to believe that the attached is not the only example of this kind of response in the history of your Board.

So, as I said, I appreciate your invitation to submit a report about "serious mathematical errors" that I "seem to be aware of" and so on. In fact, I am looking forward to doing so. But Ms. Criswell has as good as told me that no one will read my complaints if I do submit them. She has said that the Board is "prohibited" from investigating them. I can't spare the time to submit complaints that are going to be ignored and closed purely as a matter of a policy.

I'm not sure why you think my taking the time to prepare complaints which will be denied and closed as a matter of policy will benefit me more than any amount of waiting for you all to reconsider the policy. I don't agree. I also really don't see why you all are resistant to asking the Attorney General for an opinion. They do this routinely for state agencies. It's part of their job and it would settle the matter pretty definitively for everyone.

Or perhaps your Board might like to see you all take action if they were aware of the issue. Perhaps you can ask them to agendize a discussion of it at an upcoming meeting so that the public could comment. Obviously that won't be dispositive of the outcome, but perhaps it will convince you all that there's a great deal of public interest in an answer one way or the other and that maybe you're doing the State of California a disservice by spending an indeterminate amount of time thinking about the matter.

Anyway, thanks again for your "response." (Sorry! it's so hard to resist them!)

[REDACTED]